

IN THE UNITED STATES DISTRICT COURT OF WESTERN  
MICHIGAN DISTRICT OF MICHIGAN

**FILED - GR**

May 25, 2022 12:50 PM  
CLERK OF COURT  
U.S. DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
BY:JJM SCANNED BY: JW / 5-27

Troyron Gladney

Plaintiff-Intervenor

**1:22-cv-467**

**Janet T. Neff**  
**U.S. District Judge**

v.

Jeffrey Gettings

**[PROPOSED] COMPLAINT IN INTERVENTION FOR VIOLATIONS OF:**

- (1) TITLE II OF THE CIVIL RIGHTS ACT OF 1964;**
- (2) 42 U.S.C. § 1981;**
- (3) MICHIGAN DISABILITY ACT AND Elliot Larson law;**
- (4) STATE TORT LAW;**
- (5) Michigan Civil Rights**

JURY TRIAL DEMANDED

## INTRODUCTION

1. This is an action for relief from violations by Defendants Jeffrey Gettings, Allen Harbaug, Micheál Stein and Justin Workman. (“Kalamazoo Office of Prosecuting Attorney”), and Does 1-50 (collectively, “Defendants”), of the right of Plaintiff-Intervenor Troyron Gladney (“Plaintiff-Intervenor”) to be free from unlawful program discrimination on the basis of his national origin and race, Afro American.

2. Defendants, as Plaintiff-Intervenor’s former state prosecutor, subjected Plaintiff Intervenor to the ‘egregious and unlawful’ program practice of excluding me, as a condition of his wanting, to participate in and enforce a company policy and/or practice of refusing services to potential customers who were perceived to be of Black or Afro American origin or race (“Policy”).

3. Defendants’ discriminatory actions against those customers permeated all of Plaintiff-Intervenor’s work. On a regular basis, I was refused services, or instructed others to do so pursuant to Defendants’ personal feelings not policy. As a person of African descent, this caused Plaintiff Intervenor significant distress, anxiety, and shame.

4. Plaintiff-Intervenor witnessed Defendants’ employees of all ranks, including the Chief Prosecutor Jeffrey Gettings, openly engage in and/or openly allow this personal feeling to thrive. The discrimination continued even after Plaintiff-Intervenor expressed his opposition to it.

5. The consequent hostile program environment, discriminatory treatment, and retaliation at the hands of Defendants forced Plaintiff-Intervenor to relocate from his state of

## JURISDICTION AND VENUE

6. This Court has jurisdiction over the subject matter and parties pursuant to 28 U.S.C. § 1331, as this case involves questions of federal law. This Court also has jurisdiction pursuant to 28 U.S.C. § 1363 because Plaintiff-Intervenor seeks damages for violation of his civil rights.

This Court has supplemental jurisdiction over the related state law claims pursuant to 28 U.S.C. § 1367(a) because those claims form part of the same case or controversy under

Article III of the United States Constitution. Plaintiff-Intervenor's state law claims share all common operative facts with his federal law claims, and the parties are identical. Resolving Plaintiff-Intervenor's federal claims in a single action serves the interests of judicial economy, convenience, consistency, and fairness to the parties.

8. Venue is proper in, and Defendants are subject to the personal jurisdiction of, this Court because Defendants maintain facilities and business operations in this District, and all or most of the events giving rise to this action occurred in this District. 28 U.S.C. § 1391(b); 42 U.S.C. §2000e-5(f)(3).

9. Pursuant to Local Rule 3-2(d) of this District, assignment to the Western Division of this Court is proper because all or most of the events giving rise to Plaintiff-Intervenor's claims

### **NATURE OF THIS ACTION**

10. This is an action brought pursuant to Article II and Art V. Section 29; 1976 Pa 220

11. and Pa 453 and Rules Governing Organization and Procedures of the MCRC). U.S.C. § 2000e et seq., *as amended* and Michigan statutory and common law.

12. Plaintiff-Intervenor seeks injunctive and declaratory relief, compensatory damages, punitive damages, and penalties, and his reasonable attorneys' fees and litigation expenses as remedies for Defendants' violations of his Federal and Michigan statutory as well as common law rights.

13. Through this Complaint, Plaintiff-Intervenor intervenes as of right in the action commenced in this Court on March 4, 2022 against Defendant by Troyron Gladney v. *Gettings, etal*, Case No. 22-1151. 42 U.S.C. § 2000e-5(f)(1).

### **PARTIES**

13. Plaintiff-Intervener Troyron Gladney is a man of African descent. He lived as a citizen of Kalamazoo Michigan from approximately July 12,

1991 until on or around August 11, 2019. Thereafter, Plaintiff-Intervenor moved on Aug 11 2019 out of state Indiana.

14. Upon information and belief, Defendant Kalamazoo Prosecuting is a Michigan Government entity with its principal place of business in Kalamazoo, Michigan.

15. Plaintiff-Intervenor is informed and believes, and thereon alleges, that Defendant Gettings at all times relevant herein was engaged in the business of answering civil rights violation complaints and alleged civil rights violations in his office.

16. At all times relevant herein, Defendant Gettings had at least fifteen employees. It is therefore an “employer” within the meaning of Title VII.

17. Defendant Gettings is also an “employer” within the meaning of the Michigan Civil Rights Act and Fair Employment Act (“EEOC”).

18. Plaintiff-Intervenor is informed and believes, and thereon alleges, that at all times relevant herein each of the Defendant Does 1-50 were responsible in some manner for the occurrences and injuries alleged in this complaint. Their names and capacities are currently known to Plaintiff-Intervenor. Plaintiff-Intervenor will amend this Complaint to show such true capacities when the same have been ascertained.

### **STATEMENT OF FACTS**

19. At all times material to this action, Plaintiff-Intervenor was a resident of Kalamazoo Michigan. Also, a person with a mental disability also receiving SSI.

### **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

20. Plaintiff-Intervenor timely filed charges with the United States Northern District Court, which were cross-filed with the United States Western District Federal Court House.

Intervenor's charge of discrimination, there wasn't an investigation due to no due process on the Defendants part and prior to the EEOC's issuance of a Notice of Right to Sue, Plaintiff-Intervenor necessarily initiated an action in the United States Northern Court of Indiana County of ST. Joseph, in order to preserve her California statutory and common law claims. That action is styled *Troyron Gladney v. Gettings et al, Inc., et al*, No. 1:21 -cv-00064(filed Jan. 20, 2021). That action was dismissed with prejudice by Michigan Western District Court immediately upon this Court's exercise of supplemental jurisdiction over the state law claims contained herein.

22. Plaintiff-Intervenor has timely filed this action and has complied with all administrative prerequisites to bring this lawsuit.

#### **FIRST CLAIM FOR RELIEF**

##### **[Hostile Program Environment Based on National Origin in Violation of Title II of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-2(a)]**

54. Plaintiff-Intervenor incorporates by reference the allegations contained in Paragraphs 1 through 53, above, as if fully set forth herein.

55. Title II of the Civil Rights Act of 1964, as amended, makes it unlawful for an entity (1) to fail or refuse to investigate or to discharge any individual complaints, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of complaining, because of such individuals race, color, religion, sex, or national origin; or (2) to limit, segregate, or classify his or applicants for programs in any way which would deprive or tend to deprive any individual of complaint opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin." 42 U.S.C. § 2000e-2(a).

56. Defendants subjected Plaintiff-Intervenor to unwelcome conduct by ignoring him, as a term and condition of his complaint, and failed to enforce their Policy or refuse services to

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139 **SECOND CLAIM FOR RELIEF**

140 **[National Origin Discrimination (Disparate Treatment) in Violation of Title II of the Civil**  
141 **Rights Act of 1964, as amended, 42 U.S.C. § 2000e-2(a)]**

142 67. Plaintiff-Intervenor incorporates by reference as if fully set forth herein the  
143 allegations contained in paragraphs 1 - 66, above.

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145 68. Defendants discriminated against Plaintiff-Intervenor by ignoring him on the basis  
146 of his national origin, Afro American.

147 69. Plaintiff-Intervenor's national origin was the determining factor and/or a motivating  
148 factor in Defendants' adverse action.

149 70. As a direct, legal and proximate result of the discrimination, Plaintiff-Intervenor has  
150 sustained emotional injuries, resulting in damages in an amount to be proven at trial.

151 71. Defendants' unlawful actions were intentional, willful, malicious, and/or done with  
152 reckless disregard to Plaintiff-Intervenor's right to be free from discrimination based on national  
153 origin.

154 72. Plaintiff-Intervenor is entitled to her reasonable attorneys' fees and costs of suit.  
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156 **THIRD CLAIM FOR RELIEF**

157 **[Retaliation in Violation of ARTICLE II of the Civil Rights Act of 1964, as**  
158 **amended,**  
159 **42 U.S.C. § 2000e-3(a)]**

160 73. Plaintiff-Intervenor incorporates by reference as if fully set forth herein the  
161 allegations contained in paragraphs 1 - 72, above.

162 74. Article II of the Civil Rights Act of 1964, as amended, prohibits entities from  
163 discriminating against a citizen "because [he] has opposed any practice made an unlawful  
164 program practice by this subchapter." 42 U.S.C. § 2000e-3(a).

165 75. Plaintiff-Intervenor engaged in protected activity by making numerous complaints  
 166 to Defendants' agents and employees about Defendants' program practice that required Plaintiff-  
 167 Intervenor, as a term and condition of his complaints, to enforce and engage in the Policy of  
 168 refusing services to customers based on their perceived national origin, Afro American or Black.

169 76. Plaintiff-Intervenor reasonably believed that this term and condition of his  
 170 complaints was unlawful.

171 77. As a result of Plaintiff-Intervenor's complaints, Defendants, their agents and/or  
 172 employees took materially adverse actions against Plaintiff-Intervenor, including, but not limited

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174 to, ignoring me in front of supervisor peers and constructively discharging my complaints.

175 78. Defendants', their agents' and/or employees' retaliatory actions would deter a  
 176 reasonable complainants from engaging in protected activity under ARTICLE II.

177 79. As a direct, legal and proximate result of the discrimination, Plaintiff-Intervenor has  
 178 sustained economic and emotional injuries, resulting in damages in an amount to be proven at  
 179 trial.

180 80. Defendants' unlawful actions were intentional, willful, malicious, and/or done with  
 181 reckless disregard to Plaintiff-Intervenor's right to be free from retaliation.

182 81. Plaintiff-Intervenor is entitled to her reasonable attorneys' fees and costs of suit.  
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#### 184 **FOURTH CLAIM FOR RELIEF**

185 **[Constructive ignoring in Violation of Title II of the Civil Rights Act of 1964, as**  
 186 **amended, 42 U.S.C. § 2000e-2(a)]**  
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188 82. Plaintiff-Intervenor incorporates by reference as if fully set forth herein the  
 189 allegations contained in paragraphs 1 through 81, above.

190 83. Defendants, and their agents and employees, created discriminatory and intolerable  
 191 program conditions for Plaintiff-Intervenor.

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84. A reasonable person in Plaintiff-Intervenor's position would have felt compelled to rebut under these conditions.

85. Plaintiff-Intervenor did in fact moved from his State of residency because of these conditions.

86. As a direct, legal and proximate result of the discrimination, Plaintiff-Intervenor has sustained economic and emotional injuries, resulting in damages in an amount to be proven at trial.

87. Defendants' unlawful actions were intentional, willful, malicious, and/or done with reckless disregard to Plaintiff-Intervenor's right to be free from discrimination based on national origin.

88. Plaintiff-Intervenor is entitled to her reasonable attorneys' fees and costs of suit.

#### **FIFTH CLAIM FOR RELIEF**

##### **[Race Discrimination (Disparate Treatment) in Violation of 42 U.S.C. § 1981]**

104. Plaintiff-Intervenor incorporates by reference as if fully set forth herein the allegations contained in paragraphs 1-103, above.

105. Defendants discriminated against Plaintiff-Intervenor by demoting her on the basis of her race, Middle Eastern.

106. Plaintiff-Intervenor's race was the determining factor and/or a motivating factor in Defendants' adverse action.

107. As a direct, legal and proximate result of the discrimination, Plaintiff-Intervenor has sustained economic and emotional injuries, resulting in damages in an amount to be proven at trial.

108. Defendants' unlawful actions were intentional, willful, malicious, and/or done with reckless disregard to Plaintiff-Intervenor's right to be free from discrimination based on race.

109. Plaintiff-Intervenor is entitled to her reasonable attorneys' fees and costs of suit.

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### **SIXTH CLAIM FOR RELIEF**

#### **National Origin Discrimination (Disparate Treatment) in Violation of the FEHA, MI. Gov't Code § 12940(a)**

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139. Plaintiff-Intervenor incorporates by reference as if fully set forth herein the allegations contained in paragraphs 1 - 138, above.

140. The American with disability Act makes it unlawful "[for an entity, because of the national origin ... of any person, to refused services or the person or to refuse to select the person for a Civil Rights program leading to a conviction, or to bar or to discharge the person from a Government program leading to an arrest, or to discriminate against the person in compensation or in terms, conditions, or privileges of prevailing."

141. Defendants discriminated against Plaintiff-Intervenor by ignoring him on the basis of his national origin, Afro American.

142. Plaintiff-Intervenor's national origin was the determining factor and/or a motivating factor in Defendants' adverse action.

143. As a direct, legal and proximate result of the discrimination, Plaintiff-Intervenor has sustained economic and emotional injuries, resulting in damages in an amount to be proven at trial.

144. Defendants' unlawful actions were intentional, willful, malicious, and/or done with reckless disregard to Plaintiff-Intervenor's right to be free from discrimination based on national origin.

145. Plaintiff-Intervenor is entitled to reasonable attorneys' fees and costs of suit.

### **SEVENTH CLAIM FOR RELIEF**

#### **[Failure to Prevent Discrimination and in Violation of the FEHA, MI. Gov't Code.**

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154. Plaintiff-Intervenor incorporates by reference as if fully set forth herein the allegations contained in paragraphs 1-153, above.

155. Under the Elliot Larson law, it is unlawful "[f]or an entity ... to fail to take all reasonable steps necessary to prevent discrimination and harassment from occurring." MI. Gov't.

156. Defendants, their agents, and/or employees failed to take all reasonable steps necessary to prevent discrimination and a hostile program environment based on national origin, including, but not limited to, failure to investigate Plaintiff-Intervenor's complaints regarding the Policy, failure to rescind the Policy, and failure to remedy Plaintiff-Intervenor's unlawful

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discrimination.

157. Instead, Defendants created their own personal Policy and participated in maintaining a discriminatory environment. Defendants failed to effectively investigate, stop, correct, or prevent the unlawful Policy and related conditions, even after Plaintiff-Intervenor complained of such matters.

158. As a direct, legal and proximate result of Defendants' failure to take all reasonable steps necessary to prevent discrimination and harassment from occurring, Plaintiff Intervener has sustained economic and emotional injuries, resulting in damages in an amount to be proven at trial.

159. Defendants' unlawful actions were intentional, willful, malicious, and/or done with reckless disregard to Plaintiff-Intervenor's right to be free from discrimination based on national origin.

160. Plaintiff-Intervenor is entitled to her reasonable attorneys' fees and costs of suit.

### **Eighth CLAIM FOR RELIEF**

#### **[Immediate Payment and Waiting Time Penalties Pursuant to Michigan Constitution]**

191. Plaintiff-Intervenor incorporates by reference as if fully set forth herein the allegations contained in paragraphs 1-190, above.

**Ninth CLAIM FOR RELIEF**  
**[Negligent Supervision]**

205. Plaintiff-Intervenor incorporates by reference as if fully set forth herein the allegations contained in paragraphs 1 through 204, above.

206. Defendants had authority to supervise their employees.

207. Plaintiff-Intervenor is informed and believes and thereon alleges that Defendants knew or reasonably should have known that their failure adequately to supervise their employees created the risk of the commission, by those employees, of the wrongful conduct alleged herein, but that Defendants failed to take appropriate corrective action.

208. Plaintiff-Intervenor is informed and believes and thereon alleges that Defendants' failure to take appropriate corrective action resulted in the commission of the wrongful conduct alleged herein, and caused Plaintiff-Intervenor to suffer injury, damage, loss or harm.

209. As a direct, legal and proximate result of Defendants' negligence, Plaintiff-Intervenor has sustained economic and emotional injuries, resulting in damages in an amount to be proven at trial.

210. Plaintiff-Intervenor is entitled to her reasonable attorneys' fees and costs of suit.

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**DECLARATORY RELIEF ALLEGATIONS**

211. A present and actual controversy exists between Plaintiff-Intervenor and Defendants concerning their rights and respective duties. Plaintiff-Intervenor contends that

Defendants violated his rights under Article II, Michigan common law. Plaintiff-Intervenor is informed and believes and thereon alleges that the Defendants deny these allegations. Declaratory relief is therefore necessary and appropriate.

212. Plaintiff-Intervenor seeks a judicial declaration of the respective rights and duties of the parties.

### **INJUNCTIVE RELIEF ALLEGATIONS**

213. No plain, adequate, or complete remedy at law is available to Plaintiff-Intervenor to redress the wrongs alleged herein.

214. If this Court does not grant the injunctive relief sought herein, Plaintiff-Intervenor will be irreparably harmed.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff-Intervenor prays for relief as follows:

1. For a declaration that Defendants' actions, policies, and practices as alleged herein are unlawful;
2. For reinstatement;
3. For penalties and all other compensation denied or lost to Plaintiff Intervenor by reason of Defendants' unlawful actions, in an amount to be proven at trial;
4. For compensatory damages for Plaintiff-Intervenor's emotional pain and suffering, in an amount to be proven at trial;
5. For punitive damages if an amount to be determined at trial;
6. For liquidated damages;
7. For interest on lost wages, compensation, and damages, including pre- and post-judgment interest and an upward adjustment for inflation;

8. For an order enjoining Defendants from engaging in the unlawful acts complained of herein;

9. For his reasonable attorneys' fees and costs of suit pursuant to 42 U.S.C. § 2000e-5(k), 42 U.S.C. § 1988, Cal. Gov't Code § 12965(b), Cal. Code Civ. Pro. § 1021.5, and other laws; and

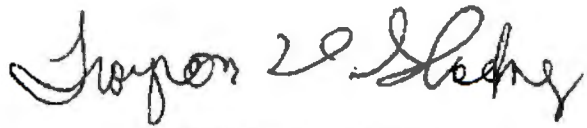
10. „ For such other and further relief as this Court deems just and proper.

Dated: March 4, 2022

Respectfully submitted,

Troyron Gladney

By:



TROYRON GLADNEY

Attorneys  
GLADNEY

for

Plaintiff-Intervener

TROYRON



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